

# Town of Weare

## ZONING BOARD OF ADJUSTMENT

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### MEETING MINUTES

Tuesday, April 2, 2013

**\*\*FINAL COPY\*\***

**PRESENT:** Chairman Jack Dearborn; Vice Chairman, Forrest Esenwine; Malcolm Wright, Member; June Purington, Member; Stu Richmond, Member; Marc Morette, Alternate; Chip Meany, Code Enforcement Officer; Sheila Savaria, Recording Secretary.

**GUESTS:** Raymond DuBois, Mary Pereira, Tiago Pereira, Doug Alwine, Steven Hart, Peter Proulx, Jeremy Blackman, Eldon Townes, Robin Stevens, Mike Stevens, Tony Soltani, Joseph Stehno, Nancy Stehno, Pat Provost, Al Provost Sr., John Dupre, Al Provost Jr., Rick Townes, Ginger Esenwine Olivier Sakellarios, Art Siciliano

#### **I. INTRODUCTION:**

Chairman Jack Dearborn called the meeting to order at 7:30 PM, explained how the Board does business, and asked the members of the Board to introduce themselves.

#### **II. PUBLIC HEARINGS:**

Case #0113 Continuation: Alain Provost, 153 Thorndike Road  
Administrative Appeal to Building Officials Interpretation of  
Article 17.2.4 to allow a home business (gun shop) at  
161 Thorndike Road, Tax Map 404-114, Residential Zone.

Stu Richmond moved to open the public hearing at 7:35pm; June Purington seconded, all voted in favor.

Chairman Dearborn said that since the last meeting, he feels that one of the problems with the application is the question of when the business was actually established. The date was not crisply identified. There were 2 identical letters sent from Chip Meany to Mike Stevens, dated April 23, 2009 and May 18, 2009, saying he is in compliance with current zoning regulations for the Town of Weare. On April 23, 2009, a sign permit was generated, and according to Atty. Soltani, the sign was put up that day or the day after. Chairman Dearborn said that although letters weren't distributed to the neighbors, the sign would have been overt recognition that the business was established. RSA 676.5.1 states that an administrative appeal needs to be filed in a reasonable time, but this was not filed for 42 months after the 2009 letters were sent. Dearborn feels this case is well beyond that reasonable time period.

Attorney Olivier Sakellarios said with this information, he'd need to look at the file closer. Also, he feels the action from Naomi Bolton in a letter dated December 18, 2012, which says he needs a site plan review for the commercial firing range, would reset the clock in terms of how long after the beginning of the business started that the appeal was filed. Chairman Dearborn thinks the letter is talking about the range specifically and that the 300' is not compliant.

Attorney Tony Soltani said that after the sign was put up on or around April 23, 2009, that was notice that this operation was occurring at that location.

Stu Richmond moved to close the public hearing at 8:00 pm; Forrest Esenwine seconded, all voted in favor.

Forrest Esenwine moved to grant the administrative appeal for Case #0113; Stu Richmond seconded, all were opposed. The administrative appeal failed and counsel has 30 days to appeal if they have any new information.

Case #0313    Variance from Article 17.1.1, Building on a Class VI Road  
Horse Spring Hill Road  
Map 409, Lots 168, 169, & 170, Residential Zone

Malcolm Wright moved to accept the application Case #0313 for hearing; Stu Richmond seconded. Discussion: Forrest noted that there were no elevations on the map as they require. June Purington, Stu Richmond, and Jack Dearborn voted in favor, Forrest Esenwine and Malcolm Wright were opposed.

Art Siciliano represented the applicants for this case. Siciliano said the applicant was Judith Chimenti of North Hampton, NH, she is the owner of the subdivision purchased in 1978. The other 5 lots in the subdivision have been developed on, and she would like to combine the remaining 3 lots into 2, construct a joint driveway, and eventually build on them. Chairman Dearborn has concerns regarding the safety of the locations of the driveway. It is on a sharp corner and it's steep. Dearborn feels the board should have some engineering work to review, as well as input from the Highway and Police Departments.

Art Siciliano requested a continuance.

Forrest Esenwine moved to continue Case #0313 to the June 7, 2013 meeting; June Purington seconded the motion. Discussion: When they come back before the board, they should have a plan and comments from the police chief, fire chief, and public works, if there are any. All voted in favor.

Vice Chairman Forrest Esenwine stepped down for the rest of the meeting, and Chairman Dearborn introduced Marc Morette to the Board as the new ZBA alternate.

Case #0413    Variance from Article 18.2, Lot Frontage Requirement  
73 Irving Drive  
Map 408, Lot 84, Residential Zone

Stu Richmond moved to accept the application for Case #0413; June Purington seconded, all voted in favor.

Art Siciliano represented the applicant for this case. The applicants need a variance because the garage on lot 84 is right on the property line, and the owners cannot walk around the garage and stay on their property. The garage was built before zoning and is not compliant, so they are swapping property around the garage for frontage so that lot will be compliant, taking 55' out of lot 84.

5 points of hardship:

1. The reduced frontage doesn't affect the public.
2. This will not be contrary to the spirit of the ordinance because it says there shall be a setback between a building and property line and the garage was constructed prior to zoning and no setback was kept. This adjustment will make it more complying.
3. Substantial justice will be done because it will allow access around the garage without going on the abutters land.
4. Values of surrounding properties will not be diminished because there will be no visual effect by reducing the frontage, and the usage is the same.
5. This property is distinguished from other properties because the garage was constructed on the property line and the homeowner cannot use the land around it without going onto the neighbors land.

Chairman Dearborn closed the public hearing at 8:45 pm.

Stu Richmond moved to accept question 1; Malcolm Wright seconded, all voted in favor.  
Stu Richmond moved to accept question 2; June Purington seconded, all voted in favor.  
Stu Richmond moved to accept question 3; June Purington seconded, all voted in favor.  
Stu Richmond moved to accept question 4; June Purington seconded, all voted in favor.  
Stu Richmond moved to accept question 5 in its entirety, Malcolm Wright seconded, all voted in favor.

**III. OTHER BUSINESS:**

Malcolm Wright commented that he had a problem with the way the Board was granting variances and feels they are spot zoning.

**IV. ADJOURNMENT:** As there was no other business to come before the board, June Purington moved to adjourn at 8:55 pm; Malcolm Wright seconded, all voted in favor.

Respectfully Submitted,

Sheila Savaria  
Recording Secretary